

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Toll Free Service Access Codes)

CC Docket No. 95-155
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REPLY OF SOUTHWESTERN BELL TELEPHONE COMPANY

Comments filed in this docket demonstrate an industry consensus against "warehousing" toll free numbers. Responsible Organizations (Resp Orgs) should assign 800 numbers only to legitimate customers planning to use the numbers. If the Commission does not prohibit warehousing and hoarding, shortages will continue.

I. **NUMBERS SHOULD BE TAKEN FROM THE "AVAILABLE" POOL ONLY FOR BONA FIDE CUSTOMERS.**

Most parties filing comments agreed that toll free numbers must be associated with bona fide customers that have requested service and intend to use it. The overwhelming number of commenters supporting such a rule establishes its importance.

Normally, a regulatory agency should not determine how products are sold, but unusual problems require unusual solutions. SWBT generally would argue that free samples are a valid way of stimulating a market; however, free samples of a scarce product with high demand do not advance the public interest.

One commenter, Mark Olson in a letter to the Commission, worried that, absent heavy usage, his 800 numbers would be taken away. SWBT at no time has supported taking any subscriber's number away based on usage. SWBT simply seeks to establish that a toll free

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number is not taken from the "available" pool unless a customer has expressed a need for the number and intends to use it.

Some claim that the near exhaust of 800 numbers was due solely to new toll free applications. Several new applications have appeared recently, but assigning an 800 number to all customers presubscribed to a given carrier (with no charge to the customer) does not constitute a new application.

The Commission must require that a customer who wants to utilize 800 service exists before a number is taken from the "available" pool.

II. THRESHOLD CHANGES ARE NECESSARY.

Commenting parties varied greatly on whether changes to certain thresholds would benefit toll free number availability. Most agreed that changes could be made to the duration and number of records that a Resp Org can keep in "Reservation" status, and most also agreed that changing the amount of time a number is in "Disconnect" or "Transition" status would not be in the public interest.

The real differences, not surprisingly, centered on the size of the changes, which highlights the difficulties of the industry consensus process. A voluntary industry reduction of thresholds simply will never occur. Many parties seek tighter controls resembling those temporarily in place during this conservation period. The SMS/800 Number Administration Committee (SNAC), however, has already reached industry consensus that most of these thresholds will be returned to original levels. The industry wants thresholds lowered but has been unsuccessful in doing so. The Commission, therefore, should establish that a Resp Org can have no more than 8% of its total numbers held in "Reservation" status, and that a number

can only be kept in this status for 30 or 45 days. The Commission should also require that no number can be taken from the "available" pool without a bona fide customer ordering and intending to use service. The Commission should also require random independent audits to determine compliance.

III. DEPOSITS/ESCROWS SHOULD NOT BE REQUIRED.

Most parties opposed escrows and deposits. A few supported deposits, suggesting that the paying of a deposit (based on usage) will ensure the customer is acting in good faith. Deposits will not stop number consumption, because correlating deposits to usage is not simple, nor even feasible. For example, it is in the public interest for some numbers to have very low usage (i.e., an 800 number for reporting toxic waste spills). Such a number may have no usage at all for a given period, yet the customers will still be acting in good faith and the public will likewise benefit. Moreover, imposing deposit requirements will likely have minimal affect on larger Resp Orgs, but may create a significant barrier to smaller Resp Orgs, because Resp Orgs somehow would have to keep track of usage (possibly through each carrier on the customer record) and report that usage manually.

IV. DEMANDS THAT LEC NETWORKS BE ENGINEERED TO HANDLE MAXIMUM LOADS ARE UNREALISTIC AND SHOULD BE DISREGARDED.

According to MCI at 12-13, the Commission should require the links between the national SMS/800 data base and local exchange carriers be engineered so that no congestion is ever encountered. SWBT doubts that MCI engineers its network to handle the worst case load; SWBT certainly does not. Networks are engineered to handle peak loads within reason. To

expect them to handle any load that may ever be delivered is unrealistic and does not even represent a sincere argument.

It would help if customers such as MCI would inform SWBT in advance when demand is expected to increase dramatically. In the meantime, the Commission should deal with number administration and leave network engineering to SWBT.

V. NETWORK DEPLOYMENT IS A CARRIER DECISION NOT INVOLVING COMMISSION MANDATE.

LDDS at 8 asks the Commission to require local exchange carriers (LECs) to deploy 888 functionality at all end offices. MCI makes the same request at 20. Some LECs, including SWBT, plan to offer 888 functionality to some extent only at access tandems. Because each network provider should control its own network, LECs, not IXC's, should control LEC networks. SWBT makes network decisions based on an analysis of all issues involved, including cost, which is directly proportional to the number of switches involved. Deployment at the access tandem lowers SWBT's cost. Neither LDDS nor MCI has demonstrated any hardship caused by a tandem deployment, so SWBT should be allowed to make its own business decisions.

If the Commission orders SWBT to deploy 888 functionality at end offices, the Commission must allow appropriate cost recovery. LDDS and MCI express concern for their own cost but make no reference to SWBT's. This is a clearly a one-sided argument that does not demonstrate hardship.

LDDS and MCI claim that any LEC offering toll free capabilities at the access tandem should bill the traffic as if it had been handled through the end office--offering one

service while billing for another. SWBT, however, agrees with the Commission's previous ruling on this issue:

The transport rate structure contemplates that traffic routed through tandems will be treated as tandem-switched transport and rated accordingly. We conclude that treating tandem-switched traffic as direct-trunked transport would undermine our goal of fostering rates that reflect the way costs are incurred, would unnecessarily complicate the transport rates and increase the interconnection charge, and appears to have little purpose. Accordingly, we clarify that this tandem-switched traffic should be assessed rates for tandem switched transport.¹

VI. THE COMMISSION SHOULD NOT ORDER A SIX MONTH MINIMUM IMPLEMENTATION PERIOD.

Several parties requested that LECs be required to implement any new toll free code in six months. Americas Carrier Telecommunications Association at 9 alleged that LECs were "slow rolling" the implementation. SWBT, however, cannot deploy what it does not have. SWBT is not even scheduled to receive the necessary switch upgrades to handle 888 for all switch types until mid-December 1995. That leaves half of December, January, and February to deploy, implement, test, and activate the capabilities throughout the network. This certainly is not "slow rolling"--whatever that means.

SWBT's Comments at 14 have already addressed SWBT's concerns with Intelligent Network (IN) capabilities versus Advanced Intelligent Network (AIN) plans for its switch vendors. Some vendors may not offer more than 888 and 877 in the IN upgrades; the

¹ First Memorandum Opinion and Order on Reconsideration, In the Matter of Transport Rate Structure and Pricing, 8 FCC Rcd 5370, 5373, CC Docket No. 91-213, released July 21, 1993.

remaining codes may require AIN. AT&T clearly is planning this type of software deployment for its switches.²

SWBT thus cannot guarantee that it can meet a six month implementation for codes, beginning with the code 866, because SWBT does not currently have AIN in all AT&T-manufactured end offices and access tandems. An order by the Commission that SWBT must implement the 866 and following codes in six months would be an order that SWBT accelerate AIN deployment. SWBT would find itself hostage to its switch vendors. The Commission must allow SWBT to deploy codes in the manner that makes good business sense.

VII. A RIGHT OF FIRST REFUSAL MAY CREATE MORE PROBLEMS THAN IT SOLVES.

The Commission truly has its hands full with this issue. Comments in support and opposition were strong and numerous. Before making its decision, the Commission must consider both the long term ramifications of allowing customers what amounts to absolute ownership of future toll free numbers, as well as the precedent being set for similar claims of ownership for all other numbers.

Many supporters of a right of first refusal fear customer confusion, assuming that people cannot differentiate between 800 and 888. This ignores, however, that customer confusion will surely be created by allowing some 800 numbers to be replicated but not others. US WEST at 20 accurately states that people will simply dial the corresponding 888 number whenever they don't get what they want from the 800 number. Number replication on a subset of 800 numbers will condition the public to try both numbers in all cases, thus leading to misdials and increased billing claims. Moreover, habituating the public to casual dialing

² AT&T at 16.

practices for replicated numbers may lead to serious consequences when dialing emergency reporting numbers that were not replicated.

Supporters of a right of first refusal certainly did not agree on what type of numbers should be replicated. LDDS at 14 implied that every 800 subscriber should have the right to all other corresponding toll free numbers. The Coalition of 800 Users at 9 suggested that number replication would only involve about 4% of the total 800 numbers in use, assuming that replication would only be offered to holders of "real" vanity numbers. Someone, obviously, will have to define "vanity number." LCI International, Inc. (LCI) at 9, notes that it is not aware of any rigorous definition of a vanity number; thus, giving priority to any 800 vanity customers will inevitably create pressures to extend similar priority to all 800 customers.

SNAC estimates that a right of first refusal would replicate 24% of all toll free numbers. In other words, as soon as a toll free code is opened, 24% of its numbers would be gone. Fifty percent consumption of a code appears to be the industry's favorite trigger for implementing the next code; number replication thus will take the industry half way there as soon as a code is turned up. Continuing this trend for future toll free codes will only further exacerbate the problem.

Resp Orgs can currently reserve up to 15% of their total numbers in "Working" status. Plus, many Resp Orgs would, no doubt, immediately seek the maximum amount of numbers from the new code, moving numbers from "Reserved" status to "Working" status as quickly as possible. The industry thus would likely find itself within a few percentage points of the trigger for the next code at the outset of a new code. Exhaust becomes perpetual. This cannot be anyone's goal.

VIII. DEDICATED CODES MAY BE FEASIBLE.

The Coalition of 800 Users at 9 recommends that the Commission utilize different toll free codes for different applications. For example, 800 would continue to be used for standard business toll free use, while 888 might be used solely for paging applications, and 877 for residential toll free service. This concept could work, and it is certainly preferable to rights of first refusal, but it, too, would require the resolution of many issues. Moreover, as discussed above, only 888 and 877 will be available immediately.³

The public generally understands that certain dialing plans are reserved for particular uses. Most know that 800 is toll free, and that 900 is pay-per-call. Soon most will learn that 500 is for personal communications. Reserving codes for pagers and for residence toll free calling may have some appeal. If 800 were reserved for business toll free and ultimately should exhaust, a new business code 822 could be opened, which should be sufficiently different from 800 to allay concerns about confusion. However, there are many issues associated with the dedication of codes which must still be addressed in far greater detail.

Separating applications by toll free codes will require auditing to insure that service providers follow the rules. The illegal proliferation of information services across dialing codes other than 900 (800 and 500, for example) demonstrates the industry's propensity to "fudge" whenever money can be made.

³ AT&T at 16.

IX. THE RBOCs, THROUGH DSMI, ARE NOT VIEWING PROPRIETARY INFORMATION.

Sprint at 22-24 alleges that, when Resp Orgs provide DSMI (Data Base Services Management, Inc.) with a file of 800 numbers to be set aside in the SMS/800 data base, the Regional Bell Operating Companies (RBOCs), as administrators, have access to proprietary information. Sprint is incorrect.

The information which Sprint claims is proprietary includes only Resp Org identification and 800 numbers to be placed into "Unavailable" status. All of this can be viewed by any Resp Org at any time and therefore is anything but proprietary. The number of daily SMS/800 transactions indicates that several users routinely scan the data base to review which numbers belong to which Resp Orgs. Sprint's fear that the RBOCs may see the data on the tapes is thus ill founded, because virtually the entire industry can and does look at the records in the data base.

Many, including Sprint, believe that DSMI is a neutral third party put in place by the RBOCs to meet an industry request. Lockheed was hired to handle all customer sensitive issues between the SMS/800 and Resp Orgs, and in that role, Lockheed is the neutral third party. DSMI, on the other hand, is an agent hired by the RBOCs to handle day-to-day business affairs, including billing for usage of SMS/800, which includes reviewing Resp Org record information.

If this relationship is unacceptable, the Commission should revisit CC Docket 86-10, which ordered the RBOCs to administer SMS/800. As stated in its Comments, SWBT

would not oppose a change; however, finding the replacement entity to manage the SMS/800 data base would require careful consideration and should be the subject of its own proceeding.⁴

X. CONCLUSION.

When the dust settles, the Commission absolutely must require that toll free numbers be reserved only for bona fide customers. Without such a rule, warehousing and hoarding will continue. With such a rule, all other issues will seem trivial.

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⁴ No matter who administers the data base, the costs associated with data base administration must continue to be recovered from all of the users of the national data base.

CERTIFICATE OF SERVICE

I, Liz Jensen, hereby certify that the foregoing
Reply of Southwestern Bell Telephone Company in CC Docket
No. 95-155, has been served November , 1995 to the Parties
of Record.

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